IINITED	STATES	DISTRICT	COURT

EASTERN DISTRICT OF TEXAS

JOHNNY JACKSON,		
Petitioner,	§ §	
versus		CIVIL ACTION NO. 1:15-CV-36
CHARLES A. DANIELS,	§ §	
Respondent.	§ §	

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Johnny Jackson, an inmate confined at the United States Penitentiary in Beaumont, Texas, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court.

The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning the petition. The magistrate judge recommends the petition be dismissed.

The court has received the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Petitioner filed objections to the Report and Recommendation.

The court has conducted a *de novo* review of the objections asserted by petitioner. After careful consideration, the court is of the opinion the objections are without merit. Petitioner challenges his sentence for conspiring to possess a controlled substance with the intent to distribute. As petitioner is challenging the validity of his sentence, and not his conviction, he may not assert his ground for review in a petition filed pursuant to 28 U.S.C. § 2241. *Torres v. Young*, 457 F. App'x 427, 428 (5th Cir. 2012); *Padilla v. United States*, 416 F.3d 424, 427 (5th Cir. 2005).

Petitioner asserts this court should follow two decisions from the United States Court of Appeals for the Eleventh Circuit that permit sentences to be challenged in a Section 2241 petition. However, as petitioner is incarcerated within the territorial jurisdiction of the United States Court of Appeals for the Fifth Circuit, this court must apply binding Fifth Circuit precedent.

ORDER

Accordingly, petitioner's objections are OVERRULED. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment shall be entered dismissing the petition.

SIGNED at Beaumont, Texas, this 10th day of March, 2016.

Maria a. Crone

UNITED STATES DISTRICT JUDGE